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Administration of justice at the United Nations

Letter dated 27 October 2010 from the President of the General Assembly to the Chair of the Fifth Committee

I have the honour to transmit herewith a letter dated 22 October 2010 from the Chair of the Sixth Committee, Ambassador Isabelle Picco, to the President of the General Assembly, regarding agenda item 140 (see annex).

(*Signed*) Joseph **Deiss**

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Annex to the letter dated 27 October 2010 from the President of the General Assembly to the Chair of the Fifth Committee

I have the honour to write to you with regard to agenda item 140, entitled "Administration of justice at the United Nations".

As you are aware, at its second plenary meeting on 17 September 2010, the General Assembly decided to allocate this item to the Fifth Committee and to the Sixth Committee for the purpose of considering the legal aspects of the reports to be submitted in connection with the item.

During the present session, the Sixth Committee considered this item in plenary at its 1st, 4th, 5th and 18th meetings on 4, 6 and 22 October 2010; the item was also considered by a Working Group. The Sixth Committee considered the legal aspects of the reports submitted by the Secretary-General and the Internal Justice Council (A/65/373 and Corr.1 and A/65/304, respectively). I would like to draw your attention to certain specific issues relating to the legal aspects of these reports, as discussed in the Sixth Committee.

Delegations pointed out that the General Assembly had allocated the item to the Sixth Committee without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters. It was recalled, however, that, under its resolution 61/261, the Assembly had decided that the new system of administration of justice should be independent, transparent, professionalized, adequately resourced and decentralized, consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike (see para. 4). Delegations further stressed the need to ensure confidence in the system on the part of staff and management alike. Delegations were therefore of the view that, when considering the various proposals in the report that may have financial implications, the Assembly should duly take into account paragraph 4 of resolution 61/261.

With regard to the scope of the system, delegations recalled that, in its resolution 63/253, the General Assembly decided to revert to the issue of the scope of the system of administration of justice at the current session, with a view to ensuring that effective remedies are available to all categories of United Nations personnel, with due consideration given to the types of recourse that are most appropriate to that end, and reaffirmed their determination to ensure that non-staff personnel be afforded effective legal remedies. Delegations were of the view that, at the present stage, none of the options described in paragraph 9 of resolution 64/233 were to be set aside. They requested the Secretary-General to provide more concrete information, particularly taking into account the different categories of non-staff personnel concerned, as set out in the report of the Secretary-General on the administration of justice (A/62/782) and paragraph 8 of resolution 64/233, as well as the options referred to in paragraph 9 of resolution 64/233. It was further pointed out that the services provided by the Office of the Ombudsman and the Mediation Division might provide an avenue for non-staff to resolve some of their issues.

Delegations considered that many of the issues described by the Secretary-General in section IV of his report (A/65/373) raised important legal questions, including due process and the rule of law. However, they expressed the view that, since many of those issues were still under consideration in the formal system of

administration of justice, it was premature and inappropriate for the General Assembly to express a view at this stage.

Delegations welcomed the establishment of the Trust Fund for the Office of Staff Legal Assistance, commended staff and associations that had made a contribution to the Trust Fund and encouraged others to make such contributions.

Finally, delegations were of the view that the Sixth Committee should revert at a later stage to the outstanding legal issues raised by the reports of the Secretary-General and the Internal Justice Council, including the question of effective remedies for non-staff personnel and the code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. In addition, they recalled paragraph 67 (c) of resolution 62/228, by which the Secretary-General was requested to report on mechanisms for the formal removal of judges, definition of the "grounds of misconduct or incapacity" and the means for the establishment of such grounds in a specific case. Delegations further recommended that the General Assembly should include the item "Administration of justice at the United Nations" in the provisional agenda of its sixty-sixth session.

It would be appreciated if the present letter could be brought to the attention of the Chair of the Fifth Committee and circulated as a document of the General Assembly, under agenda item 140.

(*Signed*) Isabelle **Picco**
Chair of the Sixth Committee